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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FINGERLAKES MALL, LLC,

Plaintiff,

-against-

FINGERLAKES MALL ACQUISITION, LLC,

Defendant.
-----X

Case No.: 07-CV-6768 (BSJ)(JCF)

**AFFIRMATION IN SUPPORT
OF PLAINTIFF'S APPLICATION
FOR A DEFAULT JUDGMENT**

ROBERT J. ANSELL, an attorney duly admitted to practice law before the Courts of this state, affirms the following under penalties of perjury:

1. I am a member of Silverman Perlstein & Acampora LLP, the attorneys for plaintiff Fingerlakes Mall, LLC, and as such, I am fully and personally familiar with all of the facts and circumstances set forth herein.

2. I submit this affirmation pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, in support of plaintiff's application for the entry of a default judgment against the defendant.

3. Jurisdiction is proper in this Court based upon diversity of citizenship pursuant to 28 U.S.C. §1332 because Plaintiff is completely diverse from the Defendant, and because the amount in controversy exceeds \$75,000 exclusive of costs.

4. Venue is proper in this Court based on 28 U.S.C. §1391(b)(i) because Defendant conducts business in the territorial area covered by the Southern District of New York.

5. This is an action to recover certain monies owed by defendant to plaintiff arising from defendant's breach of an Agreement of Sale entered into between the parties on or about August 18, 2006.

6. This action was commenced on July 27, 2007 by the filing of the summons and complaint. A copy of the summons and complaint is annexed hereto as **Exhibit 1**.

7. Service of the summons and complaint was accepted by Vincent Nicoletta, Partner at Greenberg Nicoletta & Stein LLP, as authorized to accept legal papers on behalf of defendant on July 31, 2007. Proof of service by the process server was filed with the Court on August 3, 2007.

8. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired. A copy of the Clerk's Certificate noting defendant's default is annexed hereto as **Exhibit 2**.

9. This action seeks judgment for damages in an amount to be determined at trial but in no event less than \$1,000,000.00 plus attorneys' fees in an amount to be determined at trial but in no event less than \$5,000.00. A copy of plaintiff's proposed judgment is annexed hereto as **Exhibit 3**.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief; that the amount claimed is justly due and owing to plaintiff; that no part thereof has been paid; and, that the disbursements sought to be taxed have been made in this action, or will necessarily be made or included in this action.

WHEREFORE plaintiff respectfully requests this Court (a) grant judgment in favor of plaintiff and against defendant Fingerlakes Mall Acquisition, LLC on each cause of action contained in the complaint, (b) schedule a hearing to determine the amount of damages due to plaintiff, and (c) such other and further relief as this court deems just and proper.

Dated: Jericho, New York
October 24, 2007

s/Robert J. Ansell
ROBERT J. ANSELL